

SURVEY GUIDE

AODA / MENTAL HEALTH AGENCY CERTIFICATION

WISCONSIN DEPARTMENT OF HEALTH AND FAMILY SERVICES
Division of Disability and Elder Services
Bureau of Quality Assurance

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TABLE OF CONTENTS

	Page
HEALTH SERVICES SECTION CONTACTS	3
I. INTRODUCTION	4
II. OVERVIEW OF THE SURVEY PROCESS	4
A. Standard Survey	4
B. Off-Site Survey Preparation	4
C. Entrance Conference (All Visits)	5
D. Information Gathering	5
E. Information Analysis and Compliance Decision Making	6
F. Exit Conference	6
G. Focused Surveys	7
III. EXPLANATION OF NONCOMPLIANCE STATEMENTS	7
IV. PLAN OF CORRECTION (POC)	7
A. Content of the Plan of Correction	7
B. Failure to Submit an Acceptable Plan of Correction	8
C. Extended Time Period for Correction	8
D. Verification of Correction	8
E. Failure to Correct Violations	8
V. WAIVERS AND VARIANCES	8
A. Granting and Denying a Waiver or Variance Request	9
B. Waiver or Variance Revocation	9
VI. APPEALS	9
VII. GRIEVANCES AND COMPLAINTS	10
A. Client/Patient Grievance	10
B. Agency Complaints	10
C. Caregiver Misconduct	10

CONTACTS

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TTY: (608) 266-7376
www.dhfs.state.wi.us
Email Address: Plchlthcareprov@dhfs.state.wi.us

Surveyor _____

Surveyor's Telephone Number(s) _____

Surveyor's Address _____

Surveyor's Supervisor _____

Supervisor's Telephone Number _____

SURVEY INFORMATION

Agency _____

Certification Number _____

Location _____

Entrance Date _____ Exit Date _____

I. INTRODUCTION

The Bureau of Quality Assurance is responsible for conducting surveys in Wisconsin-based agencies certified to provide treatment for alcohol and other drug abuse (AODA) or to provide mental health treatment. The Bureau also conducts surveys of out-of-state AODA/mental health agencies that are seeking certification to provide services for Wisconsin residents. The purpose of a survey is to ensure that state certification requirements are met. The following information has been prepared to serve as a guide to the certification survey process for AODA/mental health agencies.

This guide is a general reference for informational purposes. In the event of any conflict between information provided in this guide and the applicable legal requirements for an AODA/mental health agency, an agency should rely on the applicable legal requirements.

II. OVERVIEW OF THE SURVEY PROCESS

The purpose of the survey is to determine whether the AODA/mental health agency is in compliance with the applicable state certification statute, Chapter 51, Wisconsin Statutes, and Chapters HFS 12, 13, 34, 40, 61, 63, 75, 92 and 94 of the Wisconsin Administrative Code. Surveys are completed by licensing/certification specialists (surveyors) employed by the Department's Division of Disability and Elder Services, Bureau of Quality Assurance. The surveyors conduct a survey using review instruments developed or approved by the Division.

A. Standard Survey

The standard survey addresses compliance with Chapter 51 of the Wisconsin Statutes and the following Wisconsin Administrative Code requirements:

Wisconsin Administrative Code, Chapter HFS 12: Caregiver Background Checks
Wisconsin Administrative Code, Chapter HFS 13: Reporting and Investigating Caregiver Misconduct
Wisconsin Administrative Code, Chapter HFS 34: Emergency Mental Health Service Programs
Wisconsin Administrative Code, Chapter HFS 40: Mental Health Day Treatment Services for Children
Wisconsin Administrative Code, Chapter HFS 61: Community Mental Health, Developmental Disabilities and Alcohol and Other Drug Abuse Services
Wisconsin Administrative Code, Chapter HFS 63: Community Support Programs for Chronically Mentally Ill Persons
Wisconsin Administrative Code, Chapter HFS 75: Community Alcohol and Other Drug Abuse Services
Wisconsin Administrative Code, Chapter HFS 92: Confidentiality of Treatment Records of Persons Receiving Treatment for Mental Disability
Wisconsin Administrative Code, Chapter HFS 94: Patient Rights and Resolution of Patient Grievances

B. Off-Site Survey Preparation

The surveyor reviews the historical file of the AODA/mental health agency kept in each of the Bureau's regional offices and reviews applications received for changes of treatment staff.

C. Entrance Conference (All Visits)

1. **Staff Introductions:** Upon entering the agency, the surveyor will introduce himself or herself and ask to meet with the director of the program or a designee. The surveyor will obtain the name of the staff member who will act as a liaison or contact person for the survey.
2. **Explanation of Visit:** The surveyor will outline time frames, inform the agency staff about the survey process and respond to the agency's questions or concerns. The director or select staff may accompany the surveyor during the physical site review and should be available during the record review process. The surveyor will explain and answer questions about the certification process.
3. **Request for Information:** The surveyor will request information needed to conduct the survey. The surveyor will ask the agency to provide information including:
 - List of personnel, with dates of hire (including contracted employees);
 - Master work schedule and credentials for treatment staff;
 - Policy and procedure manual;
 - Training/orientation records, if maintained separately from personnel records;
 - Master calendar or supervision log;
 - Quality assurance reports for Joint Commission on Accreditation of Healthcare Organizations (JCAHO) accredited agencies;
 - Client/patient satisfaction surveys;
 - Annual report/evaluation (for AODA certification and Chapters HFS 40 and HFS 63);
 - Research studies;
 - Documents related to caregiver background checks for determining whether an offense is substantially related to client care. (See section HFS 12.06, Wis. Admin. Code.);
 - Staffing minutes;
 - Quality assurance work group minutes;
 - Pharmacy review report;
 - List of current and discharged clients/patients for selecting the client/patient random sample;
 - Services agreements; and
 - Other information, as applicable.
 - Waiting list.
 - Evidence or documentation from previous pans of correction.

D. Information Gathering

1. **Record Review:** The surveyor will select a random sample of client/patient clinical records for review. The Department's access to records is authorized by Wisconsin Statutes, sections 51.30(4)(b)1 and 51.42(7)(b), and by Chapters HFS 12, 13, 34, 40, 61, 63, 75, 92 and 94 of the Wisconsin Administrative Code.
2. **Personnel Records:** The surveyor will review a representative sample of agency personnel records for all individuals who are directly employed by or under contract with the agency and who provide care to clients/patients or supervise agency treatment staff. This review is to verify staff credentials, and assure compliance with the requirements for caregiver background checks in Chapter HFS 12, Wisconsin Administrative Code. The review will focus on staffing requirements, background checks, and any applicable requirements for professional and character references.
3. **Branch Office/Multiple Location Visits:** The surveyor will conduct visits to branch offices, as appropriate to ensure that the quality of treatment and necessary supervision are being provided.

[NOTE: The surveyor will also determine whether a branch office should be a separately certified agency. Indicators include the frequency of usage, the amount of client/patient access to the branch office, and the relative percent of therapist hours at the main site and branch office.]

4. Review of Client/Patient Complaints, Grievances and Conflict Resolution: This process verifies compliance with the applicable rights, grievance, complaint and conflict resolution requirements of section HFS 34.25 and ch. HFS 94.
5. Interviews: Surveyor may interview clients or patients.

E. Information Analysis and Compliance Decision Making

The surveyor reviews and analyzes all collected information to determine whether the facility has complied with the applicable requirements. Decision-making is an ongoing process throughout the survey, and the surveyor will maintain ongoing communication with the agency's liaison/contact person during multiple-day surveys. This occurs informally as questions arise.

F. Exit Conference

During the exit conference, the surveyor will summarize the survey findings regarding violations of requirements, as well as the facts or examples on which the findings are based. The agency has the opportunity to discuss and supply additional information. Due to the ongoing dialogue between the surveyor and the agency staff during the survey, there should be few instances where the agency is not aware of surveyor concerns prior to the exit conference.

In the exit conference there is an opportunity for the surveyor to discuss recertification. Certificates may be renewed for up to two years based on the degree of compliance with administrative codes. A provisional certificate may be issued when a program does not comply with standards.

A non-compliance statement may be served at the exit conference or may be mailed within 10 calendar days from the date of the exit. If there is a delay, the surveyor will notify the agency in writing of the reason for the delay and when the noncompliance statement will be issued.

The agency director or designee determines which staff, board members, etc., may attend the exit conference and should accommodate clients/patients if they wish to attend the exit conference. The exit conference is an informal process, and attorneys do not usually attend. The agency may have an attorney present, but the agency director or designee should give advance notice of this to the surveyor. (Surveyors have been instructed not to answer questions from the agency's attorney.) If a corporate officer also functions as the corporate counsel, the agency must notify the surveyor of the individual's dual role. The purpose of the exit conference is to provide the agency information concerning the survey, but not to debate the issues identified by the surveyor. A court reporter may not attend the exit conference.

If the agency wishes to record or videotape the exit conference, it must first obtain the permission and consent of the surveyor. An identical recording or videotape must be given to the surveyor on the same day the surveyor conducts the exit conference. Any eavesdropping, and any recording or videotaping without the express knowledge and permission of the surveyor is considered impeding the survey process. This may result in termination of the exit conference or survey.

G. Focused Surveys

A focused survey may be conducted when there are areas of concern outside of the standard survey components or when areas of a standard survey require a more comprehensive review. These surveys may be announced or unannounced. Surveys of this type include complaint investigations and surveys conducted following the report of a death as required under Wisconsin Statutes, section 51.64.

III. EXPLANATION OF NONCOMPLIANCE STATEMENTS

The surveyor will summarize the survey findings in a final report. A violation exists when a facility fails to comply with a state administrative code requirement or a statutory requirement. The surveyor will document the survey findings to provide a basis for the agency to analyze its deficient practices or system failures and to develop plans of correction. Survey findings are documented on the CFS-294 form, Non-Compliance Statement and Correction Plan (NCS).

Sections 51.42(7)(b) and 51.61(5) of the Wisconsin Statutes are the basis for the Wisconsin Administrative Code provisions applicable to AODA and mental health agency surveys.

IV. PLAN OF CORRECTION (POC)

If agency staff have questions regarding the survey findings after receiving a NCS, they may consult with the Program Certification Unit supervisor informally concerning compliance and noncompliance with the rules and statutes.

State certification requires that agencies submit a Plan of Correction (POC) to the Bureau within 30 calendar days following the issuance of the NCS. The agency should submit the POC to the Bureau of Quality Assurance Regional Office, to the attention of the surveyor involved. The due date is indicated on the NCS. Each page of the POC must be signed and dated by an authorized representative of the agency. Additional sheets of paper may be attached if the agency needs extra space to write the POC.

A. Content of the Plan of Correction

Each plan of correction must explain:

- What the agency will do to correct the violation and ensure continued future compliance,
- How the correction will be accomplished and monitored,
- Who will implement the plan and monitor for future compliance, and
- When the correction will be completed.

Correction should be accomplished within 60 calendar days or less; however, more serious violations require correction within 30 calendar days or less. If extenuating circumstances or the nature of the violation require a completion date of more than 60 calendar days, the POC must include benchmark dates detailing when partial correction will be accomplished. (As an example, a completion date of more than 60 days might be appropriate to correct a violation relating to the 90-day review requirement in certain certified services.)

Plans of correction that do not meet these standards will not be approved. In such cases, the Bureau will identify why the plans of correction were not acceptable, return the original plan of correction, and request that an acceptable plan be submitted within 10 working days. Each page of the amended plan must be signed and dated by an authorized representative of the agency.

B. Failure to Submit an Acceptable Plan of Correction

If the Bureau does not receive an acceptable plan of correction after a second notice is served, it may impose a plan with which the agency must comply. The Bureau may also initiate termination of the AODA/mental health agency's certification.

C. Extended Time Period for Correction

An agency that cannot correct a deficiency by the established completion date may request an extension by writing to the supervisor of the Program Certification Unit at least five calendar days prior to the correction date. The Bureau will determine if the extended correction time is reasonable and will notify the agency of its decision.

D. Verification of Correction

The Bureau will verify correction of non-compliance after the established completion dates have passed. Verification of correction of violations may be accomplished if the content of the violation can be meaningfully assessed by desk review. Surveyors may consult with their supervisor to determine if the nature of the violation requires a revisit.

E. Failure to Correct Violations

Failure to correct a violation by the date specified may result in certification non-renewal, certification revocation or the issuance of a conditional certificate.

V. WAIVERS AND VARIANCES

Waivers or variances may be granted for state administrative rules. All waivers and variances are reviewed annually by the Bureau of Quality Assurance, Health Services Section.

Waiver means the granting of an exemption from an applicable requirement of Chapter HFS 34, 40, 61, 63 or 75 of the Wisconsin Administrative Code.

Variance means the granting of an alternate requirement in place of a requirement of Chapter HFS 34, 40, 61, 63 or 75 of the Wisconsin Administrative Code.

Waivers and variances may be requested at any time. A request should be made in writing and specify the rule for which an exception is requested. It should include justification for the request, expected duration of the request (not to extend beyond the program's certification period), a general statement concerning the impact of the exception on the delivery of services, and assurance that it will not adversely affect patient or client health, safety or well being. A request for a variance should also explain how the proposed alternative would satisfy the intent of the specified rule. Requests for waivers or variances should be submitted to the Program Certification Unit supervisor, at the Bureau's address on the contact page at the beginning of this guide. The Program Certification Unit supervisor will consult with surveyors about the appropriateness of the waiver or variance.

If a NCS is issued during a survey, a written waiver or variance request may be submitted as part of a plan of correction. If a waiver or variance is no longer needed, the agency must notify the Program Certification Unit supervisor before the expiration date of the waiver or variance.

[NOTE: A waiver or variance request for a provision of Wisconsin Administrative Code, section HFS 63.05, may be submitted directly to the CSP Unit, Bureau of Mental Health and Substance Abuse Services, Division of Disability and Elder Services, P.O. Box 7851, Madison, WI 53707-7851.]

A. Granting or Denying a Waiver or Variance Request

1. The Department will grant or deny each waiver or variance request, in writing, within 60 calendar days of receipt of a completed request. Notice of denials will contain the reason for denial.
2. The terms of a requested variance may be modified upon agreement between the Department and the AODA/mental health agency.
3. The Department may impose conditions on the granting of a waiver or variance and may limit the duration of a waiver or variance.

B. Waiver or Variance Revocation

The Department may revoke a waiver or variance if:

1. The continuance of the waiver or variance is adversely affecting the health, safety or welfare of the clients or patients served by the AODA/mental health agency;
2. The agency has failed to comply with a condition imposed on the variance as granted;
3. The agency notifies the Department in writing that it wishes to relinquish the waiver or variance and be subject to the rule to which the waiver or variance applied;
4. Revocation is required by a change in law.

VI. APPEALS

If the Department denies, refuses to renew, suspends or revokes a certification, the AODA/mental health agency may request an administrative hearing under Wisconsin Statutes, Chapter 227. To contest the Department's certification action, the AODA/mental health agency should follow the appeal provisions and time frames of the applicable chapter of the Wisconsin Administrative Code under which it operates. A request for hearing should be sent to:

Division of Hearings and Appeals
5005 University Avenue, Room 201
P.O. Box 7875
Madison, WI 53707-7875.

If a timely request for hearing is made, the suspension, revocation or non-renewal action is stayed pending the decision on the appeal, unless the Department determines that the health, safety or welfare of clients or patients requires that the action take effect immediately.

[NOTE: The filing of an appeal does not alter the time frame for the submission of an acceptable plan of correction.]

VII. GRIEVANCES AND COMPLAINTS

A. Client/Patient Grievance

A client or patient (or someone acting on behalf of a client or patient) may file a grievance with the administrator or staff member of an agency without fear of reprisal and may communicate, subject to section 51.61(1)(p), Wisconsin Statutes, with any public official or other person without fear of reprisal.

Under section HFS 94.29, Wisconsin Administrative Code, failure of a treatment facility to comply with any provision of rights under section 51.61, Wisconsin Statutes, or with Chapter HFS 94, Wisconsin Administrative Code, may be processed as a grievance under section 51.61(5), Wisconsin Statutes, and under Chapter HFS 94, Subchapter III.

All programs providing services or residential care to persons who need the services or residential care because of mental illness, a developmental disability, alcoholism or drug dependency, as defined in section 51.01, Wisconsin Statutes, are required to have a grievance resolution system which complies with Chapter HFS 94, Subchapter III.

B. Agency Complaints

The Bureau of Quality Assurance responds to two types of complaints: facility practices and caregiver misconduct. The Health Services Section of the Bureau receives complaints and conducts complaint surveys for facility practice concerns such as inappropriate or inadequate health care, lack of entity staff training, understaffing, poor quality care, etc. For complaints concerning hospitals and other health services providers, contact the Health Services Section of the Bureau of Quality Assurance at (608) 243-2024.

Hospitals or other health services providers licensed under Chapter HFS 124 or HFS 83 are required to provide clients/patients with the written address of the Bureau of Quality Assurance to allow clients/patients to submit complaints directly to the Bureau. Complaints may be submitted in writing to the Health Services Section, Bureau of Quality Assurance, 2917 International Lane, Suite 300, Madison, WI 53704-3100.

C. Caregiver Misconduct

Complaints about caregiver misconduct relate to specific incidents between a caregiver and client/patient such as:

- Abuse--hitting, slapping, verbal, or sexual actions;
- Neglect--intentional carelessness or disregard of policy or care plan;
- Misappropriation--theft, or using property without consent, such as telephone or credit cards.

For complaints concerning noncredentialed caregivers, such as nurse aides or personal care workers, contact the Caregiver Intake Unit at (608) 243-2019 or email Caregiver_Intake@dhfs.state.wi.us. For complaints concerning credentialed staff (nurses, doctors, counselors, etc.), contact the Department of Regulation & Licensing at (608) 266-7482.

All entities regulated by the Bureau of Quality Assurance must investigate all allegations of caregiver misconduct, immediately protect patients from subsequent incidents of caregiver misconduct, and make a determination whether the incident must be reported to the Bureau.

To assist in making these determinations, refer to the Caregiver Misconduct and Injuries of Unknown Source Entity Investigation and Reporting Requirement flowchart. To report allegations, use forms DSL-2447, Incident Report of Caregiver Misconduct and Injuries of Unknown Source and DSL-2448, Witness Statement.

You may obtain these documents by contacting the Caregiver Central Intake by phone at (608) 243-2019 or by accessing the Department's Caregiver Registry and Investigation Section web site at www.dhfs.state.wi.us. When you access the web site, click on the "Licensing," button, then click on "Licensing—Health/Medical Care," and select "Caregiver Program (including background checks)." Under "Adult Programs," you will find the "Wisconsin Caregiver Program Manual" and materials, including forms, to use for investigating allegations of caregiver misconduct.